

## **EXHIBIT P**

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF DELAWARE

3 - - - - -  
4 ETHYPHARM S.A. FRANCE and :  
5 ETHYPHARM S.A. SPAIN, :  
6 Plaintiffs, :  
7 VS. : CASE NO.  
8 BENTLEY PHARMACEUTICALS, : 04-13000-SLR  
9 INC., :  
10 Defendant. :  
11 - - - - -  
12

13 DEPOSITION OF MICHAEL D. PRICE, a witness  
14 called by and on behalf of the Plaintiffs, taken  
15 pursuant to the applicable provisions of the  
16 Federal Rules of Civil Procedure, before  
17 Sandra L. Bray, Registered Diplomate Reporter,  
18 CSR Number 103593, and Notary Public in and for  
19 Commonwealth of Massachusetts, at the offices of  
20 Edwards Angell Palmer & Dodge LLP,  
21 111 Huntington Avenue, Boston, Massachusetts, on  
22 Tuesday, July 25, 2006, commencing at 9:13 a.m.  
23  
24

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## 1 APPEARANCES:

2 Representing the Plaintiffs:

3 BAACH ROBINSON &amp; LEWIS PLLC

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6 Washington, D.C. 20004

7 BY: JONATHAN D. FINE, ESQUIRE

8 DWIGHT P. BOSTWICK, ESQUIRE

9  
10 Representing the Defendant:

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12 111 Huntington Avenue

13 Boston, Massachusetts 02199

14 BY: JOSEPH P. MINGOLLA, ESQUIRE

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## 1 EXHIBITS, Continued

2 NO.	DESCRIPTION	PAGE NO.
3 13	Copy of E-mail to Mr. Murphy from Mr. Fitzgibbons, dated 11-30-01, and Attachment	171
4 14	Copy of E-mail to Mr. Bolling, et al. from Mr. Fitzgibbons, dated 11-17-01	179
5 15	Spanish Document and Translation	187
6 16	Spanish Document, Bates Numbers BEL051001-051009	202
7 17	Spanish Document, Bates Numbers BEL051010-051015	203
8 18	Spanish Document from; Ms. Villalobos, dated 12-30-03	205
9 19	Spanish Document D1-A, Bates Numbers BEL051020-051023	205
10 20	Invoice from Laboratorios Belmac S.A.	206
11 21	Invoices from Pharma de Espana	210
12 22	Copy of E-mail, dated 12-12-01	224
13 23	Contrato de Tranferencia de Tecnologia y Cesion de Know How, and Translation	227
14 24	Bentley Pharmaceuticals Board of Directors August 14-15, 2003 Meeting Minutes	236

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2 WITNESS:	PAGE NO.
3 MICHAEL D. PRICE	
4 BY MR. FINE	7, 249
5 BY MR. MINGOLLA	242

## 7 EXHIBITS

8 NO.	DESCRIPTION	PAGE NO.
9 1	2001 10-K	23
10 2	Document Bates Numbers BEL 006982-006987	33
11 3	Bentley Pharmaceuticals Inc. List of Subsidiaries	47
12 4	1999 10-K	67
13 5	2000 10-K	73
14 6	2002 10-K	99
15 7	Fax to Mr. De Basilio from Mr. Murphy, dated 1-19-95	106
16 8	Press Release, dated 10-10-00	111
17 9	Press Release, dated 11-14-01	121
18 10	Presentation to Perrigo	125
19 11	Letter to Mr. De Basilio from Mr. Herrera, dated 11-14-01	161
20 12	Letter to Mr. De Basilio from Mr. Herrera, dated 11-14-01	161

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## 1 PROCEEDINGS

2 (The Florida driver's license number as  
3 identification of the deponent was noted  
4 for the record.)

5 MICHAEL D. PRICE, having duly sworn or  
6 affirmed that his testimony would be the truth,  
7 the whole truth, and nothing but the truth,  
8 testified as follows:

9 \* \* \*

10 MR. FINE: Okay. Thank you. Before  
11 we begin, I'd like to put a brief statement on  
12 the record. Actually, could we go off the  
13 record for a second?

14 (Discussion off the record)

15 MR. FINE: As I just discussed with  
16 Mr. Mingolla, I'd like to put a brief statement  
17 on the record, that Ethypharm months ago  
18 requested some documents relating to  
19 intercompany transactions, including documents  
20 relating to the forgiveness of approximately 6.7  
21 million euros -- that's \$8 million about -- in  
22 credits extended to Laboratorios Belmac by  
23 Bentley Pharmaceuticals during time periods  
24 relevant to this litigation. In order to depose

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2 (Pages 2 to 5)

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1 Bentley's executives and officers, including  
 2 Mr. Price, Bentley first agreed to produce  
 3 documents on this subject last Thursday evening,  
 4 and Ethypharm received a few documents  
 5 purporting to relate to the loan forgiveness  
 6 issue yesterday. They're in Spanish, and we  
 7 haven't had the opportunity to understand them  
 8 adequately. Ethypharm has agreed to go ahead  
 9 with this deposition and ask questions in this  
 10 area, but to the extent that our ability to  
 11 explore the area has been compromised, Ethypharm  
 12 reserves all its rights, including the right to  
 13 recall Mr. Price or Mr. Murphy or others for  
 14 further questioning on this subject.

15 MR. MINGOLLA: And if I may at this  
 16 point just interject and note that I will  
 17 refrain from commenting completely on the  
 18 substance of Mr. Fine's representation. We, of  
 19 course, will disagree that the documents were  
 20 requested months ago, that we responded actually  
 21 before the deadline set forth in the rules, and  
 22 we will address that issue, if need be, in due  
 23 course outside of the deposition.

24 \* \* \*

1 what we can do about taking a break. The  
 2 purpose of this isn't to torture. And the only  
 3 caveat on that is that we won't take a break  
 4 between a question and your answer, but we can  
 5 take a break after those.

6 And I'd ask you -- by agreement of the  
 7 parties, we've agreed for these depositions not  
 8 to discuss or if the witness, which is you in  
 9 this instance, would not discuss the substance  
 10 of your testimony with lawyers during the  
 11 deposition during a break, that would be good.

12 A. Okay.

13 Q. You're now employed by Bentley Pharmaceuticals,  
 14 Incorporated; is that correct?

15 A. That's correct.

16 Q. What is your present position or positions with  
 17 them?

18 A. I am vice president, chief financial officer,  
 19 secretary, and treasurer.

20 Q. Do you have any other positions with Bentley?

21 A. Not with Bentley Pharmaceuticals, no.

22 Q. Do you serve on Bentley's board of directors?

23 A. I do not.

24 Q. You do not. Have your positions with Bentley

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1 EXAMINATION BY MR. FINE:

2 Q. Okay. Mr. Price, thank you for coming here  
 3 today. I really appreciate it. And I'd like to  
 4 go over a couple of sort of basics about a  
 5 deposition before we really start. Have you  
 6 ever been deposed before?

7 A. I have.

8 Q. You have. How many times?

9 A. I would guess a half a dozen.

10 Q. Okay. Basically -- were those in U.S. matters?

11 A. They were U.S. matters.

12 Q. The basic format of a deposition is that I'll  
 13 ask you questions and you answer them under  
 14 oath. Do you understand that?

15 A. I do.

16 Q. Okay. And for the benefit of our court  
 17 reporter, you have to answer my questions orally  
 18 because she can't take down a nod of the head or  
 19 uh-huh or huh-uh. That's sometimes unclear. So  
 20 if you could give a clear answer --

21 A. Okay.

22 Q. -- verbally rather than nodding your head, that  
 23 would be terrific. And if you need a break at  
 24 any time today, just let me know, and we'll see

1 changed since you were first employed there?

2 A. They have.

3 Q. When were you first employed?

4 A. In March of 1992.

5 Q. And what positions did you hold in 1992?

6 A. I was hired in March of 1992 as the director of  
 7 SEC reporting.

8 Q. I'm sorry. Was that SEC?

9 A. As in Securities and Exchange Commission  
 10 reporting.

11 Q. And who hired you?

12 A. I was hired by Mark Ayers, who was the CFO at  
 13 the time.

14 Q. And what was your salary at that time?

15 A. I think my beginning salary was \$60,000 per  
 16 year.

17 Q. Did you receive a bonus that year that you  
 18 recall?

19 A. I think I got a modest bonus of \$500 or  
 20 something like that.

21 Q. Did you receive any other compensation that  
 22 year?

23 A. I received stock options upon my hiring.

24 Q. Approximately how many?

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3 (Pages 6 to 9)

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1 Q. Was -- is Mr. Herrera now a vice president of  
 2 Bentley Pharmaceuticals, Incorporated?  
 3 A. I think he is a -- I would have to go verify his  
 4 title, but I think he is a vice president. He  
 5 could either be general managing director or  
 6 vice president. I don't recall.  
 7 Q. Was he appointed a vice president before this  
 8 date?  
 9 A. Not to my knowledge.  
 10 Q. Okay. When was he told that he was appointed to  
 11 the position of vice president of Bentley  
 12 Pharmaceuticals, Incorporated?  
 13 A. I don't know.  
 14 Q. Okay. Did you take the minutes of this board  
 15 meeting?  
 16 A. I did.  
 17 Q. And is there a signed version of these minutes?  
 18 A. There should be a signed version. I don't  
 19 know -- that's why I said it appears to be a set  
 20 of minutes from that meeting, because I don't  
 21 know why this wouldn't be signed, unless this  
 22 was just pulled off -- was this an electronic  
 23 copy that was pulled off the computer?  
 24 Q. These were produced to us as the minutes of the

1 A. That's kept in a locked file cabinet right  
 2 outside of my office.  
 3 Q. And you have no reason to doubt that the  
 4 portions of these minutes on Page 3 and Page 4  
 5 relating to the appointment of Mr. Herrera as  
 6 vice president of Bentley Pharmaceuticals, Inc.  
 7 are inaccurate; do you?  
 8 A. I have no reason to think that, no.  
 9 MR. FINE: Thank you. For the record,  
 10 we'd like to indicate that we have not been  
 11 provided with copies of any of the documents  
 12 relating to time allocations for management fees  
 13 or royalties or any other allocations owing from  
 14 Laboratorios Belmac to Bentley and, in specific,  
 15 relating to the time allocation estimates  
 16 created by Ms. Melia that have been mentioned in  
 17 this deposition and would like those.  
 18 We also have not been provided with  
 19 copies of any of the management services  
 20 agreements relating to management fees or  
 21 royalties or other intercompany transactions  
 22 between Laboratorios Belmac and Bentley  
 23 Pharmaceuticals and would like those, nor have  
 24 we been provided any documents relating to

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1 board of directors of Bentley Pharmaceuticals,  
 2 Incorporated. So I'm at as much of a loss as  
 3 you are.  
 4 A. Okay. I'm not sure why there's no signature on  
 5 there.  
 6 Q. Do you think that your signature is not on there  
 7 because this copy of the minutes is not  
 8 accurate?  
 9 A. The typical process is that I draft the minutes,  
 10 and at the next meeting or as soon as possible  
 11 thereafter, the draft minutes are shared with  
 12 the other members of the board, they get a  
 13 chance to review them, read them, point out any  
 14 corrections that need to be made to them, and  
 15 approve them either without corrections or with  
 16 corrections. At which point, I go back to my  
 17 office, make any change that may be necessary,  
 18 print off a final set of minutes, and put them  
 19 in the minute book.  
 20 Q. Is there a minute book that contains all of the  
 21 board of directors meetings of Bentley  
 22 Pharmaceuticals, Incorporated?  
 23 A. There is.  
 24 Q. Where is that kept?

1 transfer pricing studies relating to  
 2 intercompany transactions, management fees,  
 3 royalties or time allocations between  
 4 Laboratorios Belmac and Bentley Pharmaceuticals  
 5 and would like any documents relating to that  
 6 issue.  
 7 Nor have we been provided with any  
 8 budget line items or budget documents relating  
 9 to intercompany allocations for management fees,  
 10 royalties or transfer pricing between  
 11 Laboratorios Belmac and Bentley Pharmaceuticals  
 12 and would like those.  
 13 And I have no further questions.  
 14 MR. BOSTWICK: One other brief comment  
 15 about the minutes. The board minutes we've been  
 16 showing to witnesses and everybody said those  
 17 are the board minutes, this is the first time  
 18 we've heard there are signed versions, which I  
 19 don't think were produced to us. We're going to  
 20 have to rely, of course, on the minutes that  
 21 have been produced to us. If there's any  
 22 variation, you know, we need to receive those.  
 23 MR. MINGOLLA: I guess I will briefly  
 24 respond. I will not attempt to respond at

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length in entirety to the categories of documents that Dwight and Jonathan just mentioned. We will certainly look into these issues and see whether they fall within the scope of the most recent document request that was served on the eve of the depositions. I can represent to you that some of the documents you said have not been produced have, in fact, been produced to you. So -- but, again, rather than clutter the transcript of Mr. Price's deposition with a point-by-point response, I will just say we'll address that in due course as well. We can go off the record for a minute. I just need about three minutes just to check my notes.

MR. FINE: Sure.

(Recess taken from 4:27 p.m. to 4:30 p.m.)

EXAMINATION BY MR. MINGOLLA:

Q. Mr. Price, would you please get your copy of Exhibit 13 in front of you?

A. Okay.

Q. You have it? And I'd like you to turn to Page 3. This is what Mr. Fine asked you some questions about earlier this afternoon. Are you

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Q. And were those expenses incurred in connection with the Philadelphia law firm you mentioned a few minutes ago?

A. That's correct, Synnesvedt & Lechner.

Q. If you would have in front of you Exhibits 16, 17, 18, and 19.

A. Okay.

Q. Do you have those documents in front of you?

A. I do.

Q. And each of those documents is in Spanish; is that right?

A. Each of them are in Spanish.

MR. FINE: Objection. The witness has said he can't recall anything or testify to those documents.

Q. Mr. Price, could you briefly look at those documents and let me know if those are in any language other than Spanish?

A. They all appear to be in Spanish to me.

Q. You do not speak Spanish; is that correct?

A. I do not.

Q. Do you read Spanish?

A. There are words that have the same Latin roots both in English and Spanish, and those words I

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there?

A. I am.

Q. And I'm looking at an area entitled New Patents. Do you see that?

A. I do.

Q. And remember earlier this afternoon you were asked questions pertaining to the entries under Action which reads, "Jordan and Bob G to review patent issue. Jordan to have more oversight on patents"? Do you see that?

A. I do.

Q. Do you remember those questions?

A. I do.

Q. In connection with that testimony, you mentioned that Bentley had been spending a lot of money on patent prosecutions. Do you remember that statement?

A. I do.

Q. Where were those patent prosecutions taking place?

A. In the U.S.

Q. Were those expenses that were incurred by Bentley in connection with U.S. patents?

A. They were.

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could probably guess what the meaning is, but no, I don't read Spanish.

Q. Were you involved in the creation of any of the Exhibits 16 through 19?

A. I have not.

Q. Earlier this afternoon in connection with Mr. Fine's questions about the consulting arrangement, you mentioned that you spent time looking at sales trends and financial results of the Spanish operations. Do you remember that?

A. I do.

Q. And why would you be spending time looking at sales trends and financial results of the Spanish operations?

A. Because I'm primarily the spokesman for the company with respect to institutional investors or retail investors. So when they call in and ask questions about what's going on with the company, I have to be able to, first of all, understand what has been happening and what's expected to happen.

Q. At several points today, you've made reference to the consolidation of results.

A. Yes.

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